



# Excise Tax Advisory

Excise Tax Advisories (ETA) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. ETAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

NUMBER: 325.08.159/221

CONVERSION DATE: July 1, 1998

## TAX LIABILITY OF CHARTER BOAT OWNERS AND CHARTER AGENCIES--REPORTING INSTRUCTIONS

Issued October 20, 1967

Is a taxpayer, who as agent for various owners is engaged in the business of contracting charter of their boats, liable for Retail Sales Tax and Business and Occupation Tax when the charter boat owners have not registered with and reported applicable taxes to the Department of Revenue?

The taxpayer was engaged in a charter boat service in which he, as agent of several boat owners, in return for a commission, sought out prospective charterers and arranged, finalized, and supervised the charter of his principals boats. The standard "bare boat charter agreement" used by the taxpayer as well as the accounting methods and records used in his business served to clearly establish him as an agent of the boat owners. The taxpayer denied Retail Sales Tax liability when it became apparent that Sales Tax he had collected and turned over to the boat owner. in some instances, had been delivered to persons not registered with the Department of Revenue and who had not made remittances of the tax to the state.

The Department noted that a boat charter was a retail sale since RCW 82.04.050 states, "the term shall also include the renting or leasing of tangible personal property to consumers," and that RCW 82.08.050 provides, "the tax . . . shall be paid by the buyer to the seller . . . shall be deemed to be held in trust by the seller until paid to the commission

A charter agency cannot compel a boat owner to register with the Revenue Department nor is he prohibited from paying collected tax to his principal. But to avoid tax liability to himself he must make certain that Sales Tax is paid over only to persons who are properly registered to report the tax. Therefore, prior to relinquishing collected Sales Tax, the taxpayer, in his own interest, should get

***ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.***

Please direct comments to:  
Department of Revenue  
Legislation & Policy Division  
P O Box 47467  
Olympia, Washington 98504-7467  
(360) 753-4161 eta@DOR.wa.gov

To inquire about the availability of receiving this document in an alternate format for the visually impaired or language other than English, please call (360)753-3217. Teletype (TTY) users please call 1-800-451-7985.

written, signed and dated certification from the boat owner which states that he is registered with the Department, his registration number and date, his name and address, and a boat description.

Two reporting methods are available to persons engaged in charter services:

1. The charter service operator may report the total value of such charter rentals and Sales Tax collected on his regularly filed excise tax returns. He must then also report both (a) "Retailing" Business Tax on total charter rentals (in behalf of his clients) and (b) tax on his earned commission under "Service and Other Activities." The expense to the charter service of the "Retailing" Tax can be avoided if the taxpayer collects it from the boat owner. Once this method is initiated the election can be withdrawn only upon notification to and approval by the Department of Revenue.

2. Transfer of the Retail Sales Tax by the charter service to the boat operator. (a) The boat operator then will file regular returns reporting Retail Sales Tax and Business and Occupation "Retailing" Tax. (b) The charter service will report "Service" Tax due on earned commissions. (c) The charter service must furnish the Department of Revenue with complete information of all Retail Sales Tax collected, the total value of the charter rental, and name and address of the person to whom paid.